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Attorneys for Defendant

STRATEGIC MARKS, LLC

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

MACY'S INC and MACY'S.COM, INC.,

Plaintiffs,

v.

STRATEGIC MARKS, LLC,

Defendant.

CASE NO. 3:11-cv-06198-SC

**JOINT STIPULATION AND REQUEST
TO CONTINUE TRIAL DATE AND
~~[PROPOSED]~~ ORDER ON JOINT
STIPULATION TO CONTINUE TRIAL
DATE**

THE HONORABLE SAMUEL CONTI

STRATEGIC MARKS, LLC,

Counter-Claimant,

v.

MACY'S INC and MACY'S.COM, INC.,

Counter-Defendants.

This stipulation and request is made and entered into by and among plaintiffs Macy's, Inc. and Macy's.com, Inc. (collectively, "Macy's") and defendant Strategic Marks, LLC ("Strategic").

WHEREAS, this matter is presently set for trial on November 26, 2012 at 9:30 A.M. before this Court;

WHEREAS, lead counsel for defendant and counter-claimant, Benjamin Ashurov, was retained

1 to represent Strategic on July 3, 2012, and previously has had no involvement with Strategic or this
2 matter;

3 WHEREAS, Strategic's prior counsel in this matter abruptly withdrew its representation of
4 Strategic in late June, 2012 and, despite numerous requests, failed to turn over any files to Strategic or
5 Mr. Ashurov;

6 WHEREAS, Strategic's prior counsel failed to propound any discovery requests on Macy's or
7 depose any witnesses in connection with this matter, despite the fact that discovery in this action is set
8 to close on September 26, 2012;

9 WHEREAS, Strategic's prior counsel failed to take other actions (such as serving Strategic's
10 Initial Disclosures or preparing timely objections and responses to discovery propounded on Strategic
11 by Macy's) necessary for the adequate representation of Strategic in this action;

12 WHEREAS, Mr. Ashurov has sought (and been granted by Macy's) an extension of time to (1)
13 provide Macy's with Strategic's Initial Disclosures and (2) prepare objections and responses to Macy's
14 previously propounded discovery requests that shall be deemed by the parties to have been timely
15 served;

16 WHEREAS, Mr. Ashurov (1) propounded a significant number of discovery requests on
17 Macy's in a first round of discovery served August 7, 2012, (2) believes it is extremely likely he will
18 need to propound a second round of discovery requests on Macy's after obtaining and reviewing
19 Macy's responses to Strategic's first round of discovery requests, and (3) has insufficient time before
20 the September 26, 2012 close of discovery deadline to propound and obtain responses to a the second
21 round of discovery requests;

22 WHEREAS, Mr. Ashurov requires a reasonable amount of time to obtain responses to written
23 discovery requests, review and evaluate the information and documents obtained, to take depositions,
24 and complete his preparations for trial in order to adequately defend Strategic and prosecute Strategic's
25 counter-claims in this action;

26 WHEREAS, as a result of the foregoing, Mr. Ashurov cannot adequately prepare this case for
27 trial under the current schedule, and Strategic will be severely prejudiced unless the trial date is
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1 continued;

2 WHEREAS, Mr. Ashurov has advised counsel for Macy's of the foregoing, and Macy's joins in
3 Strategic's request for a continuance of the trial date and all associated pretrial dates;

4 WHEREAS, in light of the foregoing, the parties agree that there is exceptionally good cause to
5 continue the trial date in this action and, in the interest of justice, the November 26, 2010 trial date
6 should be continued to April 22, 2013, or such other date as the court deems appropriate.

7 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among all
8 parties, and the court's approval as to the following is hereby requested:

- 9 • That the trial date in this matter, currently set for November 26, 2012 at 9:30 A.M. be
10 continued to April 22, 2013 at 9:30 A.M. or such other date that the Court deems appropriate.
11 • All discovery shall be completed and all depositions taken by February 22, 2013.
12 • The last date for hearing on motions shall be March 22, 2013 at 10:00 A.M.
13 • The pretrial conference shall be held on April 12, 2013 at 10 A.M.
14 • The remaining provisions of the Status Conference Order (Docket 41) shall remain in
15 effect.
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17 DATED: August 13, 2012.

KB ASH LAW GROUP

18
19 By /s/ Benjamin Ashurov
20 BENJAMIN ASHUROV
21 Attorneys for Defendant
22 STRATEGIC MARKS, LLC
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[ADDITIONAL SIGNATURES TO FOLLOW]

1 DATED: August 13, 2012.

AMSTER, ROTHSTEIN & EBENSTEIN LLP

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3 By /s/ Anthony F. Lo Cicero
4 ANTHONY F. LO CICERO
5 Attorneys for Plaintiff
Macy's, Inc.

6 DATED: August 13, 2012.

HANSEN BRIDGETT LLP

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8 By /s/ Garner K. Weng
9 GARNER K. WENG
10 Attorneys for Plaintiff
11 Macy's.com, Inc.
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[PROPOSED] ORDER ON JOINT STIPULATION TO CONTINUE TRIAL DATE

Having duly considered the Joint Stipulation to Continue Trial Date filed by the parties to this action on August 13, 2013 (the "Joint Stipulated Continuance"), and good cause showing:

IT IS HEREBY ORDERED THAT for all the reasons set forth in the Joint Stipulated Continuance, the Court's May 4, 2012 Status Conference Order Setting Times for Compliance with Certain Rules of Court be AMENDED as follows:

1. The trial date in this matter is set for April 22, 2013 at 9:30 A.M.
2. All discovery shall be completed and all depositions taken by February 22, 2013.
3. The last date for hearing on motions shall be March 22, 2013 at 10:00 A.M.
4. The pretrial conference to be held on April 12, 2013 at 10 A.M.
5. The remaining provisions of the Status Conference Order (Docket 41) shall remain in effect.

IT IS SO ORDERED.

Dated: August 24, 2012.



CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the State of California, over the age of eighteen, and not a party to this action. My business address is KB Ash Law Group, 5674 Sonoma Drive, Suite A, Pleasanton, CA 94566.

On August 13, 2012, I served the following document(s): JOINT STIPULATION AND REQUEST TO CONTINUE TRIAL DATE AND [PROPOSED] ORDER ON JOINT STIPULATION TO CONTINUE TRIAL DATE, by the methods indicated below:

Addressed to:

Garner Kimleon Weng
Hanson Bridgett LLP
425 Market Street
26th Floor
San Francisco, CA 94105

Attorneys for MACY'S.COM, INC.

Anthony Francis Lo Cicero
Amster, Rothstein & Ebenstein
90 Park Avenue
New York, NY 10016

Attorneys for MACY'S, INC.

Were served by the following means:

[X] BY FIRST CLASS MAIL: I placed the above documents in a sealed envelope for deposit in the United States Postal Service, with first class postage fully prepaid, and that envelope was placed for collection and mailing on that date following ordinary business practices.

[X] BY ELECTRONIC MAIL: cwalters@hansonbridgett.com, gweng@hansonbridgett.com, alocicero@arelaw.com, crothstein@arelaw.com, hpekowsk@arelaw.com, capasso@arelaw.com, Macys-StrategicMarks@arelaw.com.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on August 13, 2012, at Pleasanton, California.

Dated: August 13, 2012

Respectfully submitted,

By: /s/ Benjamin Ashurov
Benjamin Ashurov, Esq.

KB ASH LAW GROUP
Attorneys for Defendant
STRATEGIC MARKS, LLC

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GENERAL ORDER ATTESTATION

I, Benjamin Ashurov, am the ECF user whose ID and password are being used to file JOINT STIPULATION AND REQUEST TO CONTINUE TRIAL DATE AND [PROPOSED] ORDER ON JOINT STIPULATION TO CONTINUE TRIAL DATE. In compliance with General Order 45.X.B., I hereby attest that Anthony F. Cicero and Garner K. Weng have concurred in this filing.

By: /s/ Benjamin Ashurov

Benjamin Ashurov, Esq.